

**AMENDMENT IN THE NATURE OF A SUBSTITUTE**  
**TO H.R. 2491**  
**OFFERED BY MR. GILLMOR OF OHIO**

Strike all after the enacting clause and insert the following:

**1 SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “International Solid  
3 Waste Importation and Management Act of 2005”.

**4 SEC. 2. INTERNATIONAL TRANSPORTATION AND DISPOSAL**  
**5 OF MUNICIPAL SOLID WASTE.**

6 (a) IN GENERAL.—Subtitle D of the Solid Waste Dis-  
7 posal Act (42 U.S.C. 6941 et seq.) is amended by adding  
8 after section 4010 the following new section:

**9 “SEC. 4011. INTERNATIONAL TRANSPORTATION AND DIS-**  
**10 POSAL OF MUNICIPAL SOLID WASTE.**

11 “(a) STATE AUTHORITY TO ADDRESS IMPORTATION  
12 AND MANAGEMENT OF MUNICIPAL SOLID WASTE.—

13 “(1) IN GENERAL.—Until the date on which all  
14 final regulations issued by the Administrator to im-  
15 plement and enforce the Agreement (including notice  
16 and consent provisions of the Agreement) become ef-  
17 fective, a State may enact a law or laws or issue reg-  
18 ulations or orders imposing limitations on the receipt



1 and disposal of foreign municipal solid waste within  
2 the State. Laws, regulations, and orders enacted or  
3 issued before that date may continue in effect ac-  
4 cording to their terms after that date.

5 “(2) EFFECT ON INTERSTATE AND FOREIGN  
6 COMMERCE.—No State action taken as authorized  
7 by this section shall be considered to impose an  
8 undue burden on interstate and foreign commerce or  
9 to otherwise impair, restrain, or discriminate against  
10 interstate and foreign commerce.

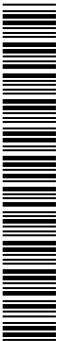
11 “(3) TRADE AND TREATY OBLIGATIONS.—  
12 Nothing in this section affects, replaces, or amends  
13 prior law relating to the need for consistency with  
14 international trade obligations.

15 “(b) AUTHORITY OF ADMINISTRATOR.—

16 “(1) IN GENERAL.—Beginning immediately  
17 after the date of enactment of this section, the Ad-  
18 ministrator shall—

19 “(A) perform the functions of the Des-  
20 ignated Authority of the United States de-  
21 scribed in the Agreement with respect to the  
22 importation and exportation of municipal solid  
23 waste under the Agreement; and

24 “(B) implement and enforce the notice and  
25 consent and other provisions of the Agreement.



1           “(2) REGULATIONS.—Not later than 24 months  
2           after the date of enactment of this section, the Ad-  
3           ministrator shall issue final regulations with respect  
4           to the Administrator’s responsibilities under para-  
5           graph (1).

6           “(3) CONSENT TO IMPORTATION.—In consid-  
7           ering whether to consent to the importation under  
8           article 3(c) of the Agreement, the Administrator  
9           shall—

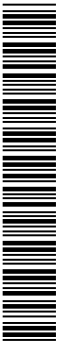
10           “(A) give substantial weight to the views of  
11           the State or States into which the municipal  
12           solid waste is to be imported, and consider the  
13           views of the local government with jurisdiction  
14           over the location where the waste is to be dis-  
15           posed;

16           “(B) consider the impact of the importa-  
17           tion on—

18           “(i) continued public support for and  
19           adherence to State and local recycling pro-  
20           grams;

21           “(ii) landfill capacity as provided in  
22           comprehensive waste management plans;

23           “(iii) air emissions from increased ve-  
24           hicular traffic; and



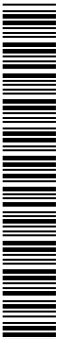
1                   “(iv) road deterioration from in-  
2                   creased vehicular traffic; and

3                   “(C) consider the impact of the importa-  
4                   tion on homeland security, public health, and  
5                   the environment.

6                   “(4) ACTIONS IN VIOLATION OF THE AGREE-  
7                   MENT.—No person shall import, transport, or export  
8                   municipal solid waste for final disposal or for incin-  
9                   eration in violation of the Agreement.

10                  “(c) COMPLIANCE ORDERS.—(1) Whenever on the  
11 basis of any information the Administrator determines  
12 that any person has violated or is in violation of this sec-  
13 tion, the Administrator may issue an order assessing a  
14 civil penalty for any past or current violation, requiring  
15 compliance immediately or within a specified time period,  
16 or both, or the Administrator may commence a civil action  
17 in the United States district court in the district in which  
18 the violation occurred for appropriate relief, including a  
19 temporary or permanent injunction.

20                  “(2) Any order issued pursuant to this subsection  
21 shall state with reasonable specificity the nature of the vio-  
22 lation. Any penalty assessed in the order shall not exceed  
23 \$25,000 per day of noncompliance for each violation. In  
24 assessing such a penalty, the Administrator shall take into



1 account the seriousness of the violation and any good faith  
2 efforts to comply with applicable requirements.

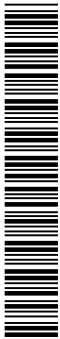
3 “(d) PUBLIC HEARING.—Any order issued under this  
4 section shall become final unless, not later than 30 days  
5 after the order is served, the person or persons named  
6 therein request a public hearing. Upon such request the  
7 Administrator shall promptly conduct a public hearing. In  
8 connection with any proceeding under this section the Ad-  
9 ministrator may issue subpoenas for the attendance and  
10 testimony of witnesses and the production of relevant pa-  
11 pers, books, and documents, and may promulgate rules for  
12 discovery procedures.

13 “(e) VIOLATION OF COMPLIANCE ORDERS.—If a vio-  
14 lator fails to take corrective action within the time speci-  
15 fied in a compliance order, the Administrator may assess  
16 a civil penalty of not more than \$25,000 for each day of  
17 continued noncompliance with the order.

18 “(f) DEFINITIONS.—For purposes of this section:

19 “(1) AGREEMENT.—The term ‘Agreement’  
20 means—

21 “(A) the Agreement Concerning the  
22 Transboundary Movement of Hazardous Waste  
23 between the United States and Canada, signed  
24 at Ottawa on October 28, 1986 (TIAS 11099)  
25 and amended on November 25, 1992; and



1 “(B) any regulations promulgated and or-  
2 ders issued to implement and enforce that  
3 Agreement.

4 “(2) FOREIGN MUNICIPAL SOLID WASTE.—The  
5 term ‘foreign municipal solid waste’ means munic-  
6 ipal solid waste generated outside of the United  
7 States.

8 “(3) MUNICIPAL SOLID WASTE.—

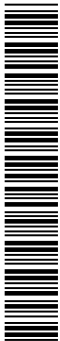
9 “(A) WASTE INCLUDED.—Except as pro-  
10 vided in subparagraph (B), the term ‘municipal  
11 solid waste’ means—

12 “(i) all waste materials discarded for  
13 disposal by households, including single  
14 and multifamily residences, and hotels and  
15 motels; and

16 “(ii) all waste materials discarded for  
17 disposal that were generated by commer-  
18 cial, institutional, municipal, and industrial  
19 sources, to the extent such materials—

20 “(I) are essentially the same as  
21 materials described in clause (i); and

22 “(II) were collected and disposed  
23 of with other municipal solid waste  
24 described in clause (i) or subclause (I)  
25 of this clause as part of normal mu-



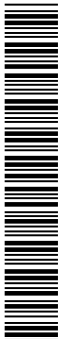
1           municipal solid waste collection services,  
2           except that this subclause does not  
3           apply to hazardous materials other  
4           than hazardous materials that, pursu-  
5           ant to regulations issued under sec-  
6           tion 3001(d), are not subject to regu-  
7           lation under subtitle C.

8           Examples of municipal solid waste include  
9           food and yard waste, paper, clothing, appli-  
10          ances, consumer product packaging, dis-  
11          posable diapers, office supplies, cosmetics,  
12          glass and metal food containers, and  
13          household hazardous waste. Such term  
14          shall include debris resulting from con-  
15          struction, remodeling, repair, or demolition  
16          of structures.

17          “(B) WASTE NOT INCLUDED.—The term  
18          ‘municipal solid waste’ does not include any of  
19          the following:

20               “(i) Any solid waste identified or list-  
21               ed as a hazardous waste under section  
22               3001, except for household hazardous  
23               waste.

24               “(ii) Any solid waste, including con-  
25               taminated soil and debris, resulting from—



1 “(I) a response action taken  
2 under section 104 or 106 of the Com-  
3 prehensive Environmental Response,  
4 Compensation, and Liability Act (42  
5 U.S.C. 9604 or 9606);

6 “(II) a response action taken  
7 under a State law with authorities  
8 comparable to the authorities of such  
9 section 104 or 106; or

10 “(III) a corrective action taken  
11 under this Act.

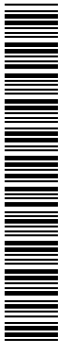
12 “(iii) Recyclable materials that have  
13 been separated, at the source of the waste,  
14 from waste otherwise destined for disposal  
15 or that have been managed separately from  
16 waste destined for disposal.

17 “(iv) Scrap rubber to be used as a  
18 fuel source.

19 “(v) Materials and products returned  
20 from a dispenser or distributor to the man-  
21 ufacturer or an agent of the manufacturer  
22 for credit, evaluation, and possible reuse.

23 “(vi) Any solid waste that is—

24 “(I) generated by an industrial  
25 facility; and



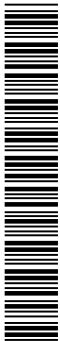


1 “(II) transported for the purpose  
2 of treatment, storage, or disposal to a  
3 facility or unit thereof that is owned  
4 or operated by the generator of the  
5 waste, located on property owned by  
6 the generator or a company with  
7 which the generator is affiliated, or  
8 the capacity of which is contractually  
9 dedicated exclusively to a specific gen-  
10 erator, so long as the disposal area  
11 complies with local and State land use  
12 and zoning regulations applicable to  
13 the disposal site.

14 “(vii) Any medical waste that is seg-  
15 regated from or not mixed with solid  
16 waste.

17 “(viii) Sewage sludge and residuals  
18 from any sewage treatment plant.

19 “(ix) Combustion ash generated by re-  
20 source recovery facilities or municipal in-  
21 cinerators, or waste from manufacturing or  
22 processing (including pollution control) op-  
23 erations not essentially the same as waste  
24 normally generated by households.”.



1 (b) TABLE OF CONTENTS AMENDMENT.—The table  
2 of contents of the Solid Waste Disposal Act (42 U.S.C.  
3 prec. 6901) is amended by adding after the item relating  
4 to section 4010 the following new item:

“Sec. 4011. International transportation and disposal of municipal solid  
waste.”.

Amend the title so as to read: “A bill to amend the  
Solid Waste Disposal Act to authorize States to restrict  
receipt of foreign municipal solid waste, to implement the  
Agreement Concerning the Transboundary Movement of  
Hazardous Waste between the United States and Can-  
ada, and for other purposes.”.

